

Application Serial No: 10/535,129
Responsive to the Office Action mailed on: October 28, 2008

REMARKS

This Amendment is in response to the Office Action mailed on October 28, 2008. No new matter is added. Claims 1, 10, 12 and 14 are amended. The amendments to claims 1 and 14 are supported, for example, in the specification on page 11, lines 22-25 and page 12, lines 9-12 and in Figure 1. Claims 10 and 12 are amended to track the amendments to claim 1. Claims 16-23 are cancelled without prejudice or disclaimer. Claims 1-15 are pending.

§112, 2nd Paragraph:

Claims 1-15 are rejected as being indefinite. In particular, the phrase "the lancing element being capable of projecting from the lancing element" in claim 1 is rejected as being unclear. Claims 1 as amended revises the phrase found unclear. Withdrawal of this rejection is requested.

§102 Rejections:

Claims 1-3 and 6 are rejected as being anticipated by Ramel (US Patent No. 5,540,709). This rejection is traversed.

Claim 1 is directed to a lancet to be attached to a lancing apparatus for moving a lancing element in a lancing direction from a standby position toward a lance position. The lancet requires, among other features, a first member including a lancing element, and a second member movable relative to the first member and including a smaller cylindrical portion and a larger cylindrical portion, the smaller cylindrical portion being configured to accommodate a tip of the lancing element, the larger cylindrical portion being formed integral with the smaller cylindrical portion and greater in outer diameter than the smaller cylindrical portion.

Ramel does not disclose or suggest these features. The rejection interprets the needle 4, the lance 2 and the arm 18 with the body 42 of Ramel as the lancing element, the first member and the second member, respectively of claim 1. However, as shown in Figures 1 and 7 of Ramel, the outer diameter of the arm 18 with the body 42, which is essentially the outer diameter of the body 42, remains constant from one end of the lancet device to the other. Also, the arm 18 with the body 42 does not include a smaller

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cylindrical portion and a larger cylindrical portion. Thus, nowhere does Ramel disclose or suggest a second member that includes a smaller cylindrical portion and a larger cylindrical portion, with the smaller cylindrical portion being configured to accommodate a tip of the lancing element, and the larger cylindrical portion being formed integral with the smaller cylindrical portion and greater in outer diameter than the small cylindrical portion. For at least these reasons claim 1 is not disclosed by Ramel and should be allowed. Claims 2, 3 and 6 depend from claim 1 and should be allowed for at least the same reasons.

Claim 14 is rejected as being anticipated by Searle (US Publication No. 2002/0087180). This rejection is traversed.

Claim 14 is directed to a lancing apparatus comprising a lancet that is movable in a lancing direction from a standby position toward a lance position. The lancet requires, among other features, a first member and a second member movable relative to the first member, with the first member including a lancing element. The second member includes a smaller cylindrical portion and a larger cylindrical portion, with the smaller cylindrical portion being configured to accommodate a tip of the lancing element, and the larger cylindrical portion being formed integral with the smaller cylindrical portion and greater in outer diameter than the smaller cylindrical portion.

Searle does not disclose or suggest these features. The rejection interprets the needle 14, the base 12 and the cap 16 of Searle as the lancing element, the first member and the second member, respectively of claim 14. However, as shown in Figures 7 and 8 of Searle, the top portion of cap 16 that is configured to accommodate the tip of the needle 14 has an outer diameter that is greater than the bottom portion of cap 16. In contrast, claim 14 requires that the tip of the lancing element is accommodated in the smaller cylindrical portion of the second member. Thus, nowhere does Searle disclose or suggest a second member that includes a smaller cylindrical portion and a larger cylindrical portion, with the smaller cylindrical portion being configured to accommodate a tip of the lancing element, and the larger cylindrical portion being formed integral with the smaller cylindrical portion and greater in outer diameter than the small cylindrical

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portion. For at least these reasons claim 14 is not disclosed by Searle and should be allowed.

§103 Rejections:

Claim 4 is rejected as being unpatentable over Ramel. This rejection is traversed. Claim 4 depends from claim 1 and should be allowed for at least the same reasons described above. Applicants do not concede the correctness of this rejection.

Claim 5, 7 and 9 are rejected as being unpatentable over Ramel in view of Searle. This rejection is traversed. Claims 5, 7 and 9 depend from claim 1 and should be allowed for at least the same reasons described above. Applicants do not concede the correctness of this rejection.

Claim 10-13 are rejected as being unpatentable over Ramel in view of Hamamoto (US Patent No. 7,250,056). This rejection is traversed. Claims 10-13 depend from claim 1 and should be allowed for at least the same reasons described above. Applicants do not concede the correctness of this rejection.

Claim 15 is rejected as being unpatentable over Searle in view of Ramel. This rejection is traversed. Claim 15 depends from claim 14 and should be allowed for at least the same reasons described above. Applicants do not concede the correctness of this rejection.

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Conclusion:

Applicants respectfully assert that claims 1-15 are in condition for allowance. If a telephone conference would be helpful in resolving any issues concerning this communication, please contact Applicants' primary attorney-of record, James A. Larson (Reg. No. 40,443), at (612) 455-3805.




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Respectfully submitted,

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